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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/237,194	01/26/1999	STEPHEN JAMES BROWN	99-0120 / 7553.00029	9517
60683 7590 05/30/2012 HEALTH HERO NETWORK, INC. 2400 GENG ROAD, SUITE 200 PALO ALTO, CA 94303				
EXAMINER				
LUBIN, VALERIE				
ART UNIT		PAPER NUMBER		
3626				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

09/237,194

Applicant(s)

BROWN, STEPHEN JAMES

Examiner

VALERIE LUBIN

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2012.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 34-132 and 134-138 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 34-132, 134-138 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Acknowledgements

1. Claims 34-132, 134-138 are pending.

Response to Amendment

2. The rejection of claims 34-138 under 35 U.S.C. 112, second paragraph is withdrawn in light of Applicant's amendments.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 34-42, 44-50, 52, 54-59, 61-63, 65, 66, 69-75, 77-85, 87, 88-93, 95, 97-102, 104-106, 108, 109, 112-118 and 120 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu et al., Pat. No. 4,803,625 (Fu) in view of Lee, Pat. No. 4,838,275, and Kirk et al., Pat. No. 5,390,238, and further in view of Beckers, Pat. No. 5,019,974.
5. As to Claims 34-41, 45, 49, 50, 54-56, 59, 62, 63, 65, 66, 69-75, Fu discloses a networked health-monitoring system (see Fig. 1), comprising: a plurality of remote patient sites (see Fig. 1, unit 60), each site including at least one display (i.e. unit 68)(col. 5, lines 53-58);

a data management unit configured to facilitate collection of patient health related data (i.e. event table and CPU 64)(col. 10, lines 1-14 and lines 28-61); a memory (i.e. unit 80)(see Fig. 2); and stored program instructions that when executed at the remote patient site generate health-monitoring related information on the display (col. 5, lines 56-57, col. 8, line 17 and col. 12, lines 1-24) and collect said patient health data (Col. 2 lines 17-21); at least one central server connectable for communication with the data management unit at the patient sites (see Fig. 1); the central server configured to transmit the program instructions to each of the plurality of remote patient sites and receive and store the patient health related data from the data from the data management unit at the remote patient sites (Col. 8 lines 4-10).

Fu does not explicitly disclose at least one health care professional computer remotely located from and configured for signal communication with the central server to receive at least one report based on the patient health-related data collected at the remote patient sites. However, Lee discloses at least one health care professional computer remotely located from and configured for signal communication with the central server to receive at least one report based on the patient health-related data collected at the remote patient sites (i.e. unit 118a)(see Fig. 1, col. 11, lines 54-56 and col. 13, lines 42-47). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include at least one health care professional computer remotely located from and configured for signal communication with the central server to receive at least one report based on the patient health-related data collected at the remote patient sites as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

Fu and Lee do not explicitly disclose a remotely located computer facility including the at least one central server wherein hardware and software of the central server automatically communicates with the data management units and at least one health care professional computer. However, Kirk discloses a health support system including a remotely located computer facility including the at least one central server wherein hardware and software of the central server automatically communicates with the data management units and at least one health care professional computer (col. 3, lines 3-11, lines 20-42). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the aforementioned limitation for the motivation of utilizing a health care support system which economically provides medication control, wellness checking and patient data accumulation and reporting capability (col. 1, lines 53-60).

Fu, Lee and Kirk do not disclose that the data management unit is a handheld unit; however Beckers does (Col. 11 lines 4, 5). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the handheld device is capable of displaying pictorial health-monitoring related information as disclosed by Beckers within Fu, Lee, and Kirk for the motivation of providing a patient with an individually tailored program of treatment (col. 1, lines 7-14). With respect to the language, "wherein said program instructions allow said hand held unit to update said information presented on the display," it is a predictable result of the combined prior art, because as shown above Fu discloses the central server sending instructions to the home units and the instructions being displayed to a user (Col. 14 lines 20-23). Therefore, whenever different instructions are sent to the home units, the information displayed is also different and hence updated.

6. As to Claim 42, Fu and Lee do not explicitly disclose the system of claim 41, wherein the handheld device is capable of displaying pictorial health-monitoring related information.

However, Beckers discloses wherein the handheld device is capable of displaying pictorial health-monitoring related information (see Fig. 2). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the handheld device is capable of displaying pictorial health-monitoring related information as disclosed by Beckers within Fu, Lee, and Kirk for the motivation of providing a patient with an individually tailored program of treatment (col. 1, lines 7-14).

7. As to Claim 44, Fu and Lee do not explicitly disclose the system of claim 42, wherein the handheld device is capable of displaying animated health-monitoring related information.

However, Beckers discloses wherein the handheld device is capable of displaying animated health-monitoring related information (see Fig. 2). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the handheld device is capable of displaying animated health-monitoring related information as disclosed by Beckers within Fu, Lee and Kirk for the motivation of providing a patient with an individually tailored program of treatment (col. 1, lines 7-14).

As to claims 85 and 87, the claims are similar in scope to claims 42 and 44 and are rejected on the same basis.

8. As to Claim 46, Fu does not explicitly disclose the system of claim 34, wherein the report is standardized.

However, Lee discloses wherein the report is standardized (col. 17, lines 20-40). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the report is standardized as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

9. As to Claim 47, Fu does not explicitly disclose the system of claim 34, wherein the system is configured to allow a health care professional to select which of a plurality of standardized reports is received.

However, Lee discloses wherein the system is configured to allow a health care professional to select which of a plurality of standardized reports is received (col. 13, lines 5-15). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the system is configured to allow a health care professional to select which of a plurality of standardized reports is received as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

10. As to Claim 48, Fu does not explicitly disclose the system of claim 34, wherein the report includes graphs and/or icons.

However, Lee discloses wherein the report includes graphs and/or icons (col. 13, lines 5-16). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the report includes graphs and/or icons as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal

amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

11. As to Claim 52, Fu does not explicitly disclose the system of claim 34, wherein the report includes displayed formatted statistical information.

However, Lee discloses wherein the report includes displayed formatted statistical information (col. 13, lines 12-17). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the report includes displayed formatted statistical information as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

12. As to Claim 57, Fu does not explicitly disclose the system of claim 55, wherein the message includes results of a test.

However, Lee discloses wherein the message includes results of a test (i.e. if there are no untoward signs, this is communicated to the patient) (col. 16, lines 39-43). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the message includes results of a test as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

13. As to Claim 58, Fu does not explicitly disclose the system of claim 55, wherein the message includes a diagnostic indication related to whether a test has proceeded in a normal fashion.

However, Lee discloses wherein the message includes a diagnostic indication related to whether a test has proceeded in a normal fashion (i.e. if there are no untoward signs, this is communicated to the patient) (col. 16, lines 39-43). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the message includes a diagnostic indication related to whether a test has proceeded in a normal fashion as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

14. As to Claim 61, Fu does not explicitly disclose the system of claim 55, wherein the message is from the health care professional computer.

However, Lee discloses wherein the message is from the health care professional computer (col. 16, lines 40-43).). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the message includes a diagnostic indication related to whether a test has proceeded in a normal fashion as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

15. As to claims 77-84, 88-93, 95, 97-102, 104-106, 108, 109, 112-118 and 120, the claims are similar in scope to claims 34-41, 45-50, 52, 54-59, 61-63, 65, 66, 69-75 and are rejected on the same basis.

16. Claims 51, 53, 60, 64, 67 94, 96, 103, 107, 110, and 111 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, Kirk and Beckers as applied to claims 34 and 77 above, and further in view of Fujimoto, Pat. No. 5,339,821.

17. As to Claims 51, 53, 60, 64, 67, and 68, Fu, Lee, Kirk and Beckers do not explicitly disclose the system of claim 34, wherein the system is configured to cause the presentation of at least one report on the display at a remote patient site.

However, Fujimoto discloses wherein the system is configured to cause the presentation of at least one report on the display at a remote patient (col. 4, lines 48-56). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the system is configured to cause the presentation of at least one report on the display at a remote patient site as disclosed by Fujimoto within Fu and Lee for the motivation of providing a medical system and apparatus which permits patients to check or measure the condition of a disease at home (col. 1, line 66 – col. 2, line 5).

As to claims 94, 96, 103, 107, 110, and 111, the claims are similar in scope to claims 51, 53, 60, 67, and 68 and are rejected on the same basis.

18. Claims 43 and 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, Kirk and Beckers as applied to claims 34 and 77 above, and further in view of Examiner's use of Official Notice.

19. As to Claim 43, Fu, Lee, and Kirk do not explicitly disclose the system of claim 40, wherein the memory is a program cartridge.

However, the Examiner takes official notice that it was well known in the computer arts to use program cartridges to program handheld devices. The motivation was to provide a simple and inexpensive means for providing computer programs that are popular or in demand by a number of users. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the memory is a program cartridge for the motivation stated above.

As to claims 86, the claim is similar in scope to claim 43 and is rejected on the same basis.

20. Claims 76 and 119-138 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, Kirk and Beckers as applied to claims 40 above, and further in view of Examiner's use of Official Notice.

21. As to Claim 76, Fu, Lee, and Kirk do not explicitly disclose the system of claim 34, wherein the healthcare professional computer receives the report after transmitting an authorization code to the server that identifies an associated healthcare professional as an authorized user.

However, the Examiner takes official notice that it was well known in the computer arts to use personal identification numbers (pin) to authorize users to access systems, programs and stored data on computers. The motivation for using pin numbers was to grant access to data or the computer system to authorized users only, particularly sensitive data or information such as patient medical data. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the healthcare professional computer receives the report after transmitting an authorization code to the server that identifies an associated healthcare professional as an authorized user within Fu, Lee and Kirk for the motivation stated above.

As to claim 119, the claim is similar in scope to claim 76 and is rejected on the same basis.

22. As to claims 121-124, the claims are similar in scope to claim 119 and are rejected on the same basis.

23. As to claims 125-131, the claims are similar in scope to claims 57 and 72 and are rejected on the same basis.

24. As to claims 132-138, the claims are similar in scope to claims 119-124 and are rejected on the same basis.

Response to Arguments

25. Applicant's arguments filed 4/11/12 have been fully considered but they are not persuasive.

26. Applicant argues that the prior art does not teach or suggest "a central server that transmits computer program instructions to remote patient sites; however Examiner respectfully disagrees and refers Applicant to Fu which discloses a central unit having a microcomputer 24 that is configured to receive data from home units as well as send instructions and data files to said home units (Col. 8 lines 4-10).

27. In response to Applicant's traversal of the rejections of claims 43, 86, 76 and 119-138 under official notice, the Examiner notes that the traversal is inadequate, as Applicant has not specifically pointed out the errors in the rejections including why the noticed facts are not considered to be common knowledge or well-known in the art.

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a) Howson U.S. Patent No 4,676,776 discloses a memory being a program cartridge (Col. 5 lines 45-59).

b) Moore U.S. Patent No. 5,287,461 discloses a server communicating a report or data to a user via computer after an authorization code is transmitted to the central server (Col. 1 lines 27-33; col. 5 lines 62-66).

Conclusion

29. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VALERIE LUBIN whose telephone number is (571)270-5295. The examiner can normally be reached on Monday-Thursday 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Morgan can be reached on 571-272-6773. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VALERIE LUBIN/
Primary Examiner, Art Unit 3626